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Date: January 28, 2009

/Keith H. Heidmann/
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences

Appellants:	Mark E. Cook, et al.	Group Art Unit:	1644
Serial No.:	10/761,715	Examiner:	Szperka, Michael Edward
Filed:	January 21, 2004	Attorney Docket. No.:	960296.00143

Title: METHOD FOR IMPROVING BODY WEIGHT UNIFORMITY AND INCREASING CARCASS YIELD IN ANIMALS

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

Mail Stop Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notification of Non-Compliant Appeal Brief mailed on January 27, 2009, Appellants submit the following replacement Appendix A (claims appendix) for the previously submitted Appeal Brief.

Replacement Appendix A begins on page 2 of this paper.

Remarks are on page 6 of this paper.

Replacement Appendix A

Please replace Appendix A of the previously submitted Appeal Brief with the following replacement claims appendix:

APPENDIX A
CLAIMS OF PATENT APPLICATION 10/761,715

1. (Previously presented) A method for improving body weight uniformity in a target group of animals, the method comprising the step of administering to said target group of animals an anti-phospholipase A_2 (anti-PLA_2) antibody in an amount sufficient to improve body weight uniformity.

2-4. (Canceled)

5. (Previously presented) The method as claimed in claim 1, wherein the anti-PLA_2 antibody is administered by a method selected from injection and oral delivery.

6. (Previously presented) The method as claimed in claim 5, wherein the anti-PLA_2 antibody is administered by an injection method selected from subcutaneous injection, intraperitoneal injection, intramuscular injection, and intravenous injection.

7. (Previously presented) The method as claimed in claim 1, wherein the anti-PLA_2 antibody is mixed with a feed or food.

8. (Previously presented) The method as claimed in claim 1, wherein the animals are selected from avians and mammals.

9. (Previously presented) The method as claimed in claim 8, wherein the avians are selected from chickens, turkeys, ducks, pheasants, geese and quail.

10. (Previously presented) The method as claimed in claim 8, wherein the mammals are selected from swine animals, bovine animals, ovine animals and caprine animals.

11. (Canceled)

12. (Previously presented) A method as claimed in claim 1, wherein the step of administering the antibody comprises the step of feeding the animals an egg preparation that comprises an anti-PLA_2 antibody.

13-24. (Canceled)

25. (Previously presented) The method of claim 1, wherein the target group of animals is a group of chickens and the agent is administered by oral delivery.

26. (Canceled)

27. (Previously presented) The method of claim 1, further comprising the step of measuring body weight uniformity in said target group of animals .

28. (Canceled)

29. (Previously presented) A method for improving body weight uniformity in a target group of animals, the method comprising the step of administering orally to said target group of animals along with diet an egg yolk powder containing anti-phospholipase A_2 (anti-PLA_2) antibodies in an amount sufficient to improve body weight uniformity wherein the ratio of the egg yolk powder to the diet by weight is from 0.6 g/kg to 2.4 g/kg.

30. (Previously presented) A method for improving body weight uniformity in a target group of animals, the method comprising the step of administering to said target group of animals an anti-phospholipase A_2 (anti-PLA_2) antibody in an amount sufficient to improve body weight uniformity by at least 0.5 as measured by a decrease in the coefficient of variation for body weights of the group of animals.

31. (Currently amended) The method of claim 30, wherein the coefficient of variation is decreased by at least 0.8.

32. (Previously presented) The method as claimed in claim 30, wherein the anti-PLA_2 antibody is administered by a method selected from injection and oral delivery.

33. (Previously presented) The method as claimed in claim 32, wherein the anti-PLA_2 antibody is administered by an injection method selected from subcutaneous injection, intraperitoneal injection, intramuscular injection, and intravenous injection.

34. (Previously presented) The method as claimed in claim 30, wherein the anti-PLA_2 antibody is mixed with a feed or food.

35. (Previously presented) The method as claimed in claim 30, wherein the animals are selected from avians and mammals.

36. (Previously presented) The method as claimed in claim 35, wherein the avians are selected from chickens, turkeys, ducks, pheasants, geese and quail.

37. (Previously presented) The method as claimed in claim 35, wherein the mammals are selected from swine animals, bovine animals, ovine animals and caprine animals.

38. (Previously presented) A method as claimed in claim 30, wherein the step of administering the antibody comprises the step of feeding the animals an egg preparation that comprises an anti-PLA_2 antibody.

39. (Previously presented) The method of claim 30, wherein the target group of animals is a group of chickens and the agent is administered by oral delivery.

40. (Previously presented) The method of claim 30, further comprising the step of measuring body weight uniformity in said target group of animals.

Remarks

In a Notification of Non-Compliant Appeal Brief mailed January 27, 2009, the Office indicated that Appellants' Appeal Brief filed on December 9, 2008 is defective, because it does not contain a correct copy of the appealed claims. Specifically, claim 31 contains an underline, whereas only clean claims are acceptable. In the notification, the Office indicated that only the defective section needs to be replaced.

In response, Appellants have provided a replacement claims appendix where the underline has been removed from claim 31. The claims are now presented with no markings and thus fully comply with 37 C.F.R. 41.37(c)(1)(viii).

This response is timely filed before the response deadline, and no fees are believed due to enter the response. However, if any fees are required at this time to enter this response, please charge any such fees to Deposit Account No. 17-0055.

Respectfully submitted,

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